

STATE OF MICHIGAN
COURT OF APPEALS

DAVID ZIDAR, Personal Representative of the
Estate of DEBORAH ZIDAR, Deceased, DENISE
BATZOLD, COLLEEN ZIDAR, KENNETH
ZIDAR, DOROTHY ZIDAR and CHRISTINE
KOSUTH,

Plaintiffs-Appellants,

V

FLEET TRANSPORT COMPANY, INC.,
CHEMICAL LEAHMAN TANK LINES, INC.,
THOMAS BROWN and CRAIG BACCOLI,

Defendants-Appellees.

UNPUBLISHED
November 13, 2001

No. 225270
Macomb Circuit Court
LC No. 99-003874-NI

Before: Bandstra, C.J., and Doctoroff and White, JJ

WHITE, J. (*dissenting*).

I would reverse. Plaintiff personal representative is a resident of Michigan, as was plaintiff's decedent. Defendant Baccoli is also a resident of Michigan. Defendants Fleet and Brown do business in Michigan.¹ There was no showing that witnesses located in Kentucky would be uncooperative, or that they would be necessary to establish anything other than basic uncontroverted facts. Nor was there a showing that the possibility of a jury view was more than speculative. Further, the applicability of Kentucky, rather than Michigan, law is uncertain. Under the circumstances, there was insufficient showing that the balance strongly favors defendants, and plaintiffs' choice of forum was entitled to deference. *Anderson v Great Lakes Dredge & Dock Co*, 411 Mich 619, 628; 309 NW2d 539 (1981).

/s/ Helene N. White

¹ The issue of personal jurisdiction was not presented to the circuit court and although raised by defendants, is not properly considered in this appeal.